



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

October 2, 2023

BY ECF

The Honorable Colleen McMahon
United States District Judge
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

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Re: *Knight Institute v. Central Intelligence Agency, et al.*, 22 Civ. 1542 (CM)

Dear Judge McMahon:

Colleen McMahon

10/3/23

This Office represents the defendant agencies in this Freedom of Information Act (FOIA) case. As required by the Court's September 5, 2023 order, ECF No. 51, we write to provide a status report on the agencies or components that have been engaged in search or processing since the last status report. Because the parties are still discussing the timeline for processing the remaining records to determine if an agreement can be reached, we respectfully propose to provide a further update on processing in three days, or by Thursday, October 5.

DOJ Criminal Division (CRM). Approximately 1,500 pages of potentially responsive records from unclassified systems remain for the Criminal Division to process. As noted in previous status reports, some of the CRM-sourced records require consultation with other agencies or components. In particular, approximately 110 pages are currently pending with the FBI for consultation. In August, the FBI raised a question about whether certain records it was consulting on were properly classified. Because the subject matter of both the consulted and non-consulted CRM records was similar, the same classification status likely would have affected the processing of the non-consulted CRM records as well. As a result, CRM paused its processing until the FBI question was resolved. Thus, CRM was unable to meet the September 1 date it had provided in the last status report for processing all non-consulted records.

Last week, the FBI resolved the classification issue. As a result, the Criminal Division will resume processing this week. The parties are currently in discussions to determine whether they can agree on a schedule for completing processing of unclassified CRM records.

In addition, CRM has also located a limited number of pages of potentially responsive records on classified systems. The parties will discuss a processing timeline for these records as well.

DOJ's Office of Information Policy (OIP). Since the last update, OIP has completed its initial responsiveness and deduplication review of a set of records which were located on classified systems. OIP has provided these records to the FBI for consultation, including, as a first step, a classification review. These records will require consultation or review by other

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Executive Branch entities as well. In order to expedite the process of review, the government is working to determine whether those other entities can complete their consultations in parallel with the FBI, or whether it would be more efficient for the other entities to conduct their reviews with the benefit of the FBI's views. The government will update plaintiff on this proposal, and the parties will then discuss a timeline to complete the remainder of OIP's response.

Proposal. The parties propose that we provide the Court with a further status report by October 5, 2023. In the event the parties cannot agree on a processing timeline for either component by that time, they will present a proposal for resolving the outstanding issues.

We thank the Court for its attention to this matter.

Respectfully submitted,

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Southern District of New York

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